

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

BRANDY TRUESDALE and CHESTER  
DOWNEY,

Plaintiffs,

V.

Case No. 1:11CV467

NATIONWIDE AFFINITY INSURANCE  
COMPANY OF AMERICA,

Defendant.

ORDER AND RECOMMENDATION OF  
UNITED STATES MAGISTRATE JUDGE

This matter is before the Court on the parties' joint Motion [Doc. #47] to partially lift the stay of proceedings in this case, so that the Court may consider the parties' forthcoming Joint Motion for Preliminary Approval of Class Action Settlement. This case was previously stayed by an Order [Doc. #46] entered on November 29, 2011, by Magistrate Judge P. Trevor Sharp, staying all proceedings in this matter as a result of the parties' tentative settlement in order to allow them time to reach a final agreement. In the present Motion seeking to lift the stay, the parties state that they have now reached an agreement and are in the process of preparing their Joint Motion for Preliminary Approval of Class Action Settlement. Therefore, the Court concludes that good cause exists to lift the stay that was previously entered in this action. As such, the Court will grant the present Motion, so that the forthcoming Joint Motion for Preliminary Approval of Class Action Settlement can be

considered by the Court. Any further proceedings on such forthcoming Motion, including the setting of any hearing on such a Motion, will be determined by the District Judge.

As a final matter, the Court notes that at the time the stay was entered, several motions were pending, including Defendant's Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(6) [Doc. #8] and Plaintiffs' Motion for Judgment on the Pleadings pursuant to Fed. R. Civ. P. 12(c) [Doc. #14]. In light of the parties' agreed-upon settlement, the undersigned will recommend that the pending dispositive motions be dismissed without prejudice at this time.

IT IS THEREFORE ORDERED that the parties' Joint Motion for Partial Lift of Stay [Doc. #47] is GRANTED and the stay of this action entered by the Court on November 29, 2011 [Doc. #46] is LIFTED. Any further proceedings on the forthcoming Joint Motion for Preliminary Approval of Class Action Settlement, including the setting of any hearing on such a Motion, will be determined by the District Judge.

IT IS RECOMMENDED that Defendant's Motion to Dismiss [Doc. #8] and Plaintiffs' Motion for Judgment on the Pleadings [Doc. #14] be DENIED WITHOUT PREJUDICE as moot in light of the pending settlement.

This, the 19th day of April, 2012.

/s/ Joi Elizabeth Peake  
United States Magistrate Judge